



22 CFR Part 126

[Public Notice: 11486]

RIN 1400-AF32

International Traffic in Arms Regulations: Addition of Ethiopia and Amendment to Eritrea Country Policy

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations (ITAR) to add and update entries for Ethiopia and Eritrea, respectively. These changes codify that it is the policy of the United States to deny licenses and other approvals for exports of defense articles and defense services to certain end-users in those countries as described herein.

DATES: The rule is effective on [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ms. Engda Wubneh, Foreign Affairs Officer, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-1809; e-mail DDTCCustomerService@state.gov ATTN: Regulatory Change, ITAR Section 126.1: Ethiopia and Eritrea.

SUPPLEMENTARY INFORMATION: The United States has deepening concerns about the ongoing crisis in northern Ethiopia as well as other threats to the sovereignty, national unity, and territorial integrity of Ethiopia. People in northern Ethiopia continue to suffer human rights violations, abuses, and atrocities, and urgently needed humanitarian relief is being blocked by the Ethiopian and Eritrean militaries as well as other armed actors. On May 23, 2021, the Secretary of State announced restrictions with respect to Ethiopia and Eritrea, including certain restrictions related to security assistance. The Department is updating ITAR § 126.1, consistent with the

Secretary's announcement, by adding Ethiopia in paragraph (n) and updating the existing entry for Eritrea in paragraph (h). The policy of denial applies to licenses or other approvals for exports of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of either Ethiopia or Eritrea. Further, the Department is amending ITAR § 126.1(d)(2) to clarify that the prohibitions and exceptions for each country are specified in each respective paragraph, and not in ITAR § 126.1(d)(2). Lastly, the Department is making an administrative change to paragraph (d)(1).

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA), pursuant to 5 U.S.C. 553(a)(1) and 5 U.S.C. 554(a)(4). Since the Department is of the opinion that this rule is exempt from 5 U.S.C. 553, it is the view of the Department that the provisions of Section 553(d) do not apply to this rulemaking.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553(b), the rule does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Department does not believe this rulemaking is a major rule within the definition of 5 U.S.C. 804.

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Because the scope of this rule implements a governmental policy limiting defense trade with a country, and does not impose additional regulatory requirements or obligations, the Department believes costs associated with this rule will be minimal. This rule has been designated as a nonsignificant regulatory action by the Office of Information and Regulatory Affairs under Executive Order 12866.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

For the reasons set forth above, title 22, chapter I, subchapter M, part 126 is amended as follows:

PART 126 – GENERAL POLICIES AND PROVISIONS

1. The authority citation for part 126 continues to read as follows:

Authority: 22 U.S.C. 2752, 2778, 2780, 2791, and 2797; 22 U.S.C. 2651a; 22 U.S.C. 287c; Sec. 1225, Pub. L. 108-375; Sec. 7089, Pub. L. 111-117; Pub. L. 111-266; Sections 7045 and 7046, Pub. L. 112-74; E.O. 13637, 78 FR 16129.

2. Section 126.1 is amended by adding a heading for the table in paragraph (d)(1), revising paragraphs (d)(2) and (h), and adding paragraph (n) to read as follows:

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

* * * * *

(d) * * *

(1) * * *

Table 1 to Paragraph (d)(1)

* * * * *

(2) For defense articles and defense services, a policy of denial applies as specified in the associated paragraphs in the following table:

Table 2 to Paragraph (d)(2)

| Country | Country specific paragraph location |
|------------------------------|---|
| Afghanistan | See also paragraph (g) of this section. |
| Central African Republic | See also paragraph (u) of this section. |
| Cyprus | See also paragraph (r) of this section. |
| Democratic Republic of Congo | See also paragraph (i) of this section. |
| Ethiopia | See also paragraph (n) of this section. |
| Eritrea | See also paragraph (h) of this section. |
| Haiti | See also paragraph (j) of this section. |
| Iraq | See also paragraph (f) of this section. |
| Lebanon | See also paragraph (t) of this section. |
| Libya | See also paragraph (k) of this section. |
| Russia | See also paragraph (l) of this section. |
| Somalia | See also paragraph (m) of this section. |
| South Sudan | See also paragraph (w) of this section. |
| Sudan | See also paragraph (v) of this section. |
| Zimbabwe | See also paragraph (s) of this section. |

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(h) *Eritrea*. It is the policy of the United States to deny licenses or other approvals for exports of defense articles or defense services destined to or for the armed forces, police, intelligence, or other internal security forces of Eritrea.

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(n) *Ethiopia*. It is the policy of the United States to deny licenses or other approvals for exports of defense articles or defense services destined to or for the armed forces, police, intelligence, or other internal security forces of Ethiopia.

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Bonnie Jenkins,

Under Secretary,

Arms Controls and International Security,

Department of State.

Billing Code: 4710-05

[FR Doc. 2021-23450 Filed: 10/29/2021 8:45 am; Publication Date: 11/1/2021]